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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Bernhard Erich Hermann Claus et al.

Serial No.: 09/976,621

Filed: October 12, 2001

For: RECONSTRUCTION METHODS  
FOR TOMOSYNTHESIS

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Group Art Unit: 2625

Examiner: Chen, Wenpeng

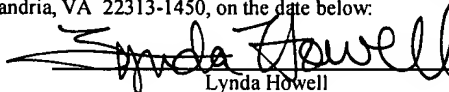
Atty. Docket: RD28415-1/YOD  
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37 C.F.R. 1.8

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Lynda Howell

**REPLY BRIEF PURSUANT TO 37 C.F.R. §§ 41.41**

This Reply Brief is being filed in response to the Examiner's Answer mailed on November 28, 2006. Appellants have thoroughly reviewed the Examiner's Answer and offer the following additional comments.

First, Appellants believe that the Board need look no further than the Webber reference itself for a clear understanding that the reference does not support the Examiner's rejection. Moreover, the Examiner's reliance upon Kirchner et al. in the Examiner's Answer is both tardy and improper.

As pointed out in the responses to the Office Actions in connection with the present application, and in the Appeal Brief filed by Appellants, Webber is exceedingly clear in its reliance on alternative techniques for tomosynthesis. That is, the Board need look no further than Figures 25A and 24B of Webber, and the accompanying description. Figure 24A clearly indicates that when backprojection is used by Webber, the technique

is used with *linear operators*. Where non-linear operators are used, as illustrated in Figure 24B, *backprojection is not employed*.

The Examiner would have the Board engage in complex analysis of other art and other references for a misunderstanding of what is intended by the term “backprojection”. However, the term is clearly understood in the art, and indeed it must be assumed that Webber uses the term as it would be used by those skilled in the art. That is, “backprojection” as used in Webber is the same as “backprojection” as used in the present application. Where Webber intends to use backprojection, linear operators are used, and where non-linear operators are used, backprojection is not used. The minimization technique indicated in reference to Figure 24B of Webber is not a backprojection technique.

Appellants note that the Examiner has appeared to either alter the rejection in the Examiner’s Answer, or to expanded the Examiner’s position beyond that contained in any previous action. That is, on page 11 of the Examiner’s Answer, the Examiner refers to U.S. Patent No. 6,028,910, issued to Kirchner et al. The Examiner appears to refer to Kirchner et al. to explain (to himself) what is intended by the term “backprojection”.

Clearly, to the extent that Kirchner et al. was not relied upon in any previous action, Appellants had not been given a fair opportunity to respond to any statement that Kirchner et al. may or may not make. The Examiner clearly cannot change the basis for the rejection in the Examiner’s Answer. At this late date in prosecution, Appellants would simply request that the Board instruct the Examiner that the reference to Kirchner et al. is improper. Moreover, rather than reopen prosecution, Appellants would request that the Board comment, and to the extent necessary refer to Kirchner et al., to verify that it does not require reopening of prosecution, and that the pending claims should be allowed in their present form.

Perhaps more importantly, Appellants submit that there is not need whatsoever to refer to Kirchner et al. or to any other reference for an understanding of the term "backprojection". Webber himself refers to backprojection. As discussed above, when Webber does teach the use of backprojection, it is always with linear operators. Thus, the Examiner's somewhat tortured reliance upon Kirchner et al. in an attempt to alter a clear understanding of Webber is misplaced and unnecessary.

For the reasons set forth in the Appeal Brief, and with the present comments in mind, Appellants renew their request that the Board reverse the outstanding rejections of the claims and instruct the Examiner to allow the pending claims.

Respectfully submitted,

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